



## State of New Hampshire

### PUBLIC EMPLOYEE LABOR RELATIONS BOARD

NEW BOSTON EDUCATION ASSOCIATION,  
NEA-NH

Petitioner :

CASE NO. T-0390

v. :

NEW BOSTON SCHOOL BOARD

Respondent :

DECISION NO. 89-60

#### APPEARANCES

Representing the New Boston Education Association, NEA-NH:

Marc Benson, UniServ Director, Souhegan Region, NEA-NH

Representing the New Boston School Board:

Douglas Hatfield, Esq., Counsel

Also Appearing:

Timothy S. Gormley, Superintendent  
Richard H. Matthews, Principal  
Anne Christoph, School Nurse  
Susan Carr, Physical Education Instructor

#### BACKGROUND

On July 12, 1989, the New Boston Education Association, NEA-NH (Association) petitioned for certification of a bargaining unit consisting of nineteen (19) classroom teachers, one (1) guidance counselor and one (1) school nurse.

Counsel for the School Board (Board), Attorney Hatfield filed an objection to the formation of the unit specifically to the inclusion of the school nurse and the part-time teachers doing specialty work, some of which work less than half-time and with varying duty responsibilities.

By mutual consent of the parties, a unit determination hearing was held at the Superintendent's office in Goffstown on August 30, 1989 before PELRB appointed Hearings Officer, Edward J. Haseltine and with all parties represented.

Marc Benson for the Association argues that exclusion of the school nurse would preclude her right to be represented, a right granted public employees under RSA 273-A and that part-time employees have been included in several bargaining units. He further stated that he interprets differently the position of 80% advanced by the School Board and joins in a request for a ruling in the matter.

Witness Anne Christoph testified as to her certification as a school nurse, her teaching duties, Red Cross courses, health counseling, relationship with parents, duties during lunch and recess, workday and work year, duties with local rescue squad, health classes, past history of individual negotiations with the school board and method of payment.

Witness Susan Carr, Physical Education teacher testified on her employment with the District; i.e., three (3) days per week for a total of twenty-one (21) hours as opposed to the normal teacher workweek of thirty-five (35) hours.

Teacher Don Jarnrog testified that the school nurse met with teachers often and advised them regarding problem children, aggressive students, and that the nurse often met with parents, and that the teachers utilized the nurse in classroom presentations.

Principal Rick Matthews testified as to the duties of the teachers and guidance counselor, specifically the confidential nature of the guidance counselor's work with parents, students and school board; the flexibility of work schedule for the nurse who generally works 9 to 3, 3 days per week; and, that he interpreted part-time as Counsel did that part-time was anyone who worked 80 percent of full time or less. Further that the guidance counselor was paid the same benefits and salary on a pro-rated basis and the nurse did in fact teach some in classrooms but generally under the supervision of the classroom teachers. He stated that the nurse was not required to attend staff meetings but was always given notice of such meetings and frequently did attend and had an open invitation to do so.

In summation, representative for the Association stated that there was a self-felt community of interest (professional) by the guidance counselor and the school nurse, both had to be certified by an agency; i.e., N. H. Board of Education (teacher) and N. H. School Nurse Association (Nurse) and that the 80 percent requirement to be considered part-time for bargaining unit members would effectively work to prohibit many members from being represented.

Attorney Hatfield for the Board reiterated his interpretation or guideline of 80 percent of full-time as the cutoff point for bargaining unit inclusion, the confidentiality of the guidance position, that the nurse was not a classroom teacher who did not necessarily have a right to be represented in the bargaining unit with teachers as she served as a health educator advisor to children.


#### FINDINGS OF FACT

1. The part-time teacher position who works more than 51 percent of his time as a classroom teacher qualifies as a member of the bargaining unit
2. PELRB has generally adopted the 51 percent participation requirement to qualify as a permanent part-time position.
3. The requested 80 percent cutoff requested by the School Board is an excessive requirement which if applied generally to petitions for creation of bargaining units would deny many individuals the right of representation which the N. H. Legislature bestowed upon public employees by enacting RSA 273-A.

4. In this particular case, the 51 percent requirement is adopted, therefore the three (3) part-time teaching positions who work 21 hours out of a total of 35 scheduled hours can and are considered eligible for bargaining unit membership.
5. The guidance position is a teaching position and the confidential nature of the position does not relate to labor relations and does not meet the test required by RSA 273-A:1, IX (c) and is considered confidential in the same manner as teacher confidentiality with students, parents, principal and school board.
6. The school nurse is recognized as a professional position by the parties and so stipulated. The nurse in unrefuted testimony does teach health classes in the classroom and is not always supervised by a certified teacher. She shares the sufficient community of interest with teachers, works for the same employer, employed 183 days per year under the same supervision as teachers, namely, the school principal.
7. Membership in bargaining units permits negotiations for a unit but does not imply all positions have to carry the same compensation, benefit structure and employment schedules, but "terms and conditions of employment" subject to negotiations by the parties.

DECISION

Based on all the evidence presented, I find that the petition for certification of a bargaining unit to include all professional staff employed by the New Boston School District, which includes all classroom teachers, guidance counselor and school nurse, is a proper unit under RSA 273-A and that an election should be held as expeditiously as possible by PELRB.



EDWARD J. HASELTINE, Hearings Officer

Dated this 20th day of September, 1989.